IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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WEDNESDAY, THE TWENTY SECOND DAY OF AUGUST

TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

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WP.NO.18755 OF 2005

Between:

Doddi Venkateswarlu … Petitioner

Versus

The Special Officer & Competent Authority,

Urban Land Ceiling,

Guntur,

Guntur district. … Respondent

Counsel for the Petitioner: Mr.G.V.SHIVAJI (4586)

Counsel for the Respondents: GP for Revenue

O R D E R :

This writ petition is filed questioning the action of the respondents in not considering the objection petition dated 20-6-2005 submitted by the petitioner and not passing order under section 8 (4) and 10 (2) of the A.P. (Ceiling & Regulation) Act, 1976 pursuant to the judgment of this court reported in 2000 (4) ALD-596, 2001 (2) ALD-696 and judgment of the Supreme Court in 2003 (5) ALD-68 SC and also the Government of India instructions and guidelines in Lr.No.3-1-97 UCU (2) dated 21-5-1997.

It is submitted that the petitioner filed declaration under section 6 (1) of the Urban Land (Ceiling & Regulation) Act, 1976 declaring the properties possessed by his

family and thereupon the respondent issued a draft statement on 28-11-1980 calling for the objections. In reply to the draft statement, the petitioner filed his objections on 01-12-1980. But the respondent neither consider his objections nor passed any order under section 8(4) of the Act, which is mandatory under the provisions of the Act, as categorically held by this court in a judgment reported in 2000 (4) ALD-596, 2001 (2) AID-696, 1997 (3) ALD-794 without issuing statutory order under section 8 (4) of the Act, the respondent has issued a notification under section 10 (1) of the Act on 06-6-2005 notifying excess land in proceedings ULC.No.300/79/C, dated 06-6-2005.

The petitioner submits that when he learnt about the issuance of notification under section 10 (1) of the Act, he filed an objection petition dated 20-6-2005 stating that no opportunity was given to him and that the statutory order under section 8 (4) of the Act has not been passed and that a portion of land is earmarked for master plan road and that the land situated in Ankireddipalli village falls in the peripheral area and therefore it does not attract the provisions of the Urban Land (Ceiling & Regulation) Act, 1976 pursuant to the orders dated 28-10-1988 passed in GO.Ms.No.733.

The petitioner further submits that according to the judgment of the Supreme Court reported in 2003 (5) ALD-68 SC, the land on which construction of building is not permissible should not be computed as vacant land as per section 2 (q) (1) of the Act and as per the Building Regulations laid down in GO.Ms.No.423, M.A. & U.D. Department, dated 31-7-1998. He has submitted that his major daughter, Mrs.D.Nagalakshmi is entitled to share as per the Government of India's Lr.No.3/1/97, dated 21-5-1997.

Now the grievance of the petitioner is that the respondent without considering any of his objections, proceeding further to issue Gazette notification under section 10 (3) of the Act, declaring that the alleged surplus land is vested with the Government free from all encumbrances. In that event, the petitioner will be put to grave injustice. Therefore, he filed the present writ petition.

Considering the facts and circumstances of the case, without going into the merits or otherwise, I deem it appropriate to dispose of the writ petition at the admission stage directing the respondent to consider and dispose of the objection petition dated 20-6-2005 submitted by the petitioner pursuant to section 8(4) and 10 (2) of the Act and in the light of the judgment of this court reported in 2000 (4) ALD-596, 2001 (2) ALD-696 and the Judgment of the Supreme Court reported in 2003 (5) ALD-68SC and the Government of India's instruction and guidelines issued in LR.No.3-1-97 UCU(2), dated 21-5-1997 and pass appropriate order on merits and in accordance with law, within three months, from the date of receipt of a copy of this order, after giving reasonable opportunity of hearing the petitioner.

With the above direction, the writ petition is disposed of at the admission stage. No costs.

AUGUST 24th, 2005. ----------

l s L. ELIPE DHARMA RAO , J.